

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOHN WILCOX,

Plaintiff,

v.

No. 1:20-cv-01018-KWR-LF

JOHN GAY, *et al*,

Defendants.

**ORDER OF VOLUNTARY DISMISSAL**

**THIS MATTER** comes before the Court on Plaintiff's *pro se* Motion to Dismiss his Prisoner Civil Rights Complaint (Doc. 13). The Court construes the Motion as a request for voluntary dismissal under Fed. R. Civ. P. 41(a)(1)(A)(i). That rule gives plaintiffs a right to dismiss an action without prejudice "before the opposing party serves either an answer or a motion for summary judgment." Rule 41(a)(1)(A)(i). *See also Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003) (noting the right to dismiss under Rule 41(a)(1)(i) is "absolute"). This case is still in the screening phase, and Defendants have not been ordered to file a responsive pleading. Therefore, the Court will **GRANT** the Motion and dismiss the Complaint (Doc. 1) without prejudice.

**IT IS ORDERED** that the Motion to Dismiss (**Doc. 13**) is **GRANTED**; and the Court will enter a judgment **DISMISSING** this case **WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

  
**KEA W. RIGGS**  
**UNITED STATES DISTRICT JUDGE**